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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/714,107   | 11/14/2003  | Roger William Hickey | HICKEY-1            | 1944             |
| 7590 07/28/2005  |             |                      | EXAMINER            |                  |
| Curtis L. Harrington<br>Suite 250<br>6300 State University Drive<br>Long Beach, CA 90815 |             |                      | NGUYEN, KIEN T      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3714                |                  |

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/714,107

Applicant(s)

HICKEY, ROGER WILLIAM

Examiner

Kien T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Specification***

The disclosure is objected to because of the following informalities: it does not provide a definition of "free-standing" and fails to have antecedent basis for the claim technology as set forth in the additional language of claim 1.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, the additional language "to form a free standing relationship between said at least one leg, said deck member, said curved rail and said curved ramp member" is indefinite because it was not clear what is the definition of "free standing" (see the above objection to the specification). Merriam-Webster's Online Dictionary defines "freestanding" as "standing alone or on its own foundation free of support or attachment (a freestanding wall). The leg (37), deck (35), curved rail (31) and curved ramp member (23, 27, 29) of Applicant's invention support each other and are NOT free of support or attachment with each other. This is the interpretation taken in the below art rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Rieber et al U.S. Patent 6,782,577).

Rieber et al disclosed, in Figs. 1 and 3, a ramp system comprising a deck member (16) having at least one leg (e.g., 12 or 14), a curved rail (24) attached to the deck; and a curved ramp member (22) hingeably connected to the curved rail to form a load bearing angular relationship limited in one direction (22b and the ground limits clockwise rotation; also Figs. 4-4A and col. 5, lines 9-15 disclose the back side of 22a will contact the back side of 16 and will limit pivoting motion in the clockwise direction) with respect to the curved rail for supporting both lateral and gravitational force on the curved ramp member to form a free standing relationship between the at least one leg, the deck member, the curved rail and the curved ramp member. With respect to the "free standing" limitation, the curved ramp member and the leg are not connected and thus are in a free standing relationship with each other as best understood (see the above explanation under 35 USC 112, 2<sup>nd</sup> paragraph). In the alternative, the at least one leg of deck member reads on leg 18 (col. 2, line 55), which is in a free standing relationship with the deck member, the curved rail and the curved ramp member as best understood.

As for claim 3, Fig. 2 of Rieber et al shows a plurality of sections (74) each of the sections having a first side (vertical) and a second side (horizontal) and concave in

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dimension in the direction of the first side, the top section (74) attached to the other section (74) at attachment points displaced from the first sides (vertical) of the sections.

As for claim 7, the leg (12) of Rieber et al is angled away from the curved ramp member (Fig. 1) for providing support throughout a range of engagement of the curved ramp member.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rieber.

It is noted that Rieber et al failed to specifically disclose the dimension of the radius of curvature of the ramp member. However, such dimension appears to be a matter of design choice to accommodate any specific environment and/or user. Accordingly, it would have been a matter of design to one skilled in the art at the time of the invention to manufacture the curved ramp member of Rieber et al with any desired dimension for the reason as set forth above.

### ***Allowable Subject Matter***

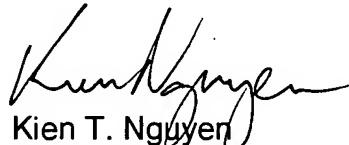
Claims 4-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on (571) 272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kien T. Nguyen  
Primary Examiner  
Art Unit 3714

Ktn